

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NIPPON SHINYAKU CO., LTD.,
Plaintiff,

V.

SAREPTA THERAPEUTICS, INC.,
Defendant.

C.A. No. 21-1015 (JLH)

SAREPTA THERAPEUTICS, INC. and THE
UNIVERSITY OF WESTERN AUSTRALIA,
Defendant/Counter-Plaintiffs,

V.

NIPPON SHINYAKU CO., LTD. and NS
PHARMA, INC.,
Plaintiff/Counter-Defendants.

**NS'S CONCISE STATEMENT OF FACTS IN SUPPORT OF ITS RESPONSE TO
SAREPTA AND UWA'S MOTION FOR PARTIAL SUMMARY JUDGMENT NO. 1
REGARDING INFRINGEMENT OF U.S. PATENT NOS. 9,994,851 AND 10,227,590**

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Dated: January 12, 2024

1. Viltolarsen is an antisense oligonucleotide with 21 bases: “CCTCCGGTTC TGAAGGTGTT C.” Sarepta Ex. 44 [Viltepso® Label], § 11.

2. The claims of U.S. Patent Nos. 9,994,851 (“the ’851 Patent”), 10,227,590 (“the ’590 Patent”), and 10,266,827 (“the ’827 Patent”) all include limitations directed to an antisense oligonucleotide having certain characteristics. Sarepta Exs. 1-3.

3. Each claim of the ’851 and ’590 Patents include the limitation requiring that the antisense oligonucleotide have a base sequence “wherein the base sequence comprises at least 12 consecutive bases of CUG AAG GUG UUC UUG UAC UUC AUC C (SEQ ID NO: 195).” *See* Sarepta Exs. 1-3 at Claims 1-2.¹

Dated: January 12, 2024

Respectfully submitted,

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¹ Claim 2 of the ’827 Patent does not literally include the quoted language, but claim 2 depends from claim 1, which does include the quoted language. *See* ’827 Patent, claims 1-2.